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### PART III. REMARKS

Applicant respectfully requests reconsideration in view of the foregoing Amendments and the following Remarks. Applicant originally presented Claims 1-12 for consideration in the Application. Claims 1-12 were canceled, without prejudice, and new Claims 13-32 were added in a Preliminary Amendment filed 09/03/2002. The Examiner does not regard the previously added Claim 13-32 as constituting new matters in the Office Action. Claims 13-32 stand rejected. In the present Amendment Paper, Claims 13-19, and 22-30 are amended, Claims 31-32 are cancelled, without prejudice, and new Claims 33-34 are added. Accordingly, Claims 13-30 and 33-34, as amended, are presented for prosecution. The amendments and cancellation of claims in the present and previous Amendment Papers were made for the sole purpose of presenting the claims in better form, and were not made in response to the Office Action.

#### § III.1 SPECIFICATION

1. The Examiner has taken exception with the specification in view of certain reference numbers in the drawings that are not described in the specification. The foregoing amendment to the specification, including modification of the paragraph [0039] therein, has been made to solely comply and correct the deficiency in form identified by the Examiner and by Applicant after further consideration. As a result thereof, reference numbers 602 and 603 of FIG. 4, and 208a, 214s, and 200a of FIG. 5 are fully described in the specification without introducing any new matter.
2. In paragraph 1 on page 2 of the Office Action, the Examiner stated, "Reference numbers 260c and 270c of Fig. 6 are not described in the specification". However, the reference numbers 260c and 270c of Fig. 6 are described in the last sentence of paragraph [0036] in the specification.

#### § III.2 DRAWINGS

3. Applicant respectfully traverses the Examiner's objection to the drawings under 37 § 1.83(a). The Examiner states in paragraph 2 on page 2 of the Office Action: "The drawings must show every feature of the invention specified in the claims. Therefore, the buy button of claim 16 must be shown or the feature(s) canceled from the claim(s)".
4. However, the Examiner has failed to establish that drawings are necessary in the present case. Applicant respectfully submits that, the inclusion of the drawings in the original application were made for even better understanding of the disclosures, and it did not arise out of necessity, and that the drawings are NOT necessary in the present application. 35 U.S.C. § 113 (Applicant is required to submit a drawing only when deemed "necessary for the understanding of the subject matter sought to be patented", or when "the nature of such subject matter admits of illustration by a drawing"). See also 37 C.F.R. § 1.181. Evidently, the claimed subject matter in Claim 16 does not admit of illustration by a

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drawing. As for the interpretation of the statutory language of "necessary for the understanding of the subject matter sought to be patented", the Office has adopted a very liberal standard based on whether a patent application includes at least one method or process claim. MPEP 601.01(f) ("It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence)")[*emphasis added*]). Evidently, the present Application includes more than one method claims. In fact, most of the pending claims, including Claims 18-23, 24-30, and 34, are method claims. Therefore, a drawing is not even necessary for the understanding of the claimed subject matter. Moreover, since the Examiner's objection is not based on Applicant's introduction of any new matter, the claimed subject matter in Claim 16 must have been fully supported in the original Specification. Furthermore, since Claim 16 is also rejected by the Examiner under 35 U.S.C. §§ 103(a) and 112, it is unreasonable for the Examiner to object to all the drawings based on a single rejected Claim when a total of 20 Claims are presented for prosecution.

5. Applicant respectfully requests that the Examiner states, in the ensuing Office Action, the legal ground in support of the Examiner's objection to drawings as to why the drawings are deemed necessary within the meaning of the statutory language of 35 U.S.C. § 113.

### § III.3 REJECTION UNDER 35 U.S.C. § 112

6. Applicant respectfully traverses the Examiner's rejection of Claim 16 under 35 U.S.C. 112. The Examiner stated in paragraph 4 on page 3 of the Office Action, "A description of the buy button and online identity-authentication and purchasing application... is not enabled by the disclosure." However, a description in the specification is not always necessary as long as the claim language itself constitutes a clear disclosure of the subject matter. MPEP 608.01(I) ("Where subject matter not shown in the drawing or described in the description is claimed in the application as filed, and such original claim itself constitutes a clear disclosure of this subject matter .... The claim should not be attacked either by objection or rejection because this subject matter is lacking in the drawing and description...")[*emphasis added*]). The Examiner did not state in the Office Action that the claim language itself does not constitute a clear disclosure or does not properly define the invention. The Examiner cited *In re Mayhew*, 527 F.2d 1229 (CCPA 1976). However, the situation in *In re Mayhew* is different, because the claims were rejected on the ground that the claims themselves do not "properly define the invention". Moreover, in *In re Mayhew*, the PTO's rejections were reversed in part (and affirmed in part).

### § III.4 REJECTION UNDER 35 U.S.C. § 102

7. Applicant respectfully traverses the Examiner's rejection of Claims 13-15, 18-20, 24-26, 28, and 30-32 under 35 U.S.C. § 102(b) as being anticipated by KELLEY *et al.* (U.S. Patent No. 5,907,322, hereinafter, "KELLEY *et al.*").

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8. The legal concept of anticipation is well established as that, (i) every claim element in the claim must be found in a single prior art reference, and that (ii) the claim elements found in the prior art reference must also be arranged as required by the claim. See, e.g., (A) *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."); and (B) *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989) ("The identical invention must be shown in as complete detail as is contained in the ...claim." and "Every element of the claimed invention must be literally present, arranged as in the claim" [emphasis added]); See also MPEP § 2131. Moreover, evidence of secondary consideration, such as unexpected result or commercial success, and the issues of non-analog art and teaching away from claimed subject matter are not relevant to §102 rejections.

9. The Examiner's errors in § 102 rejection are apparent in view of the foregoing legal concept of anticipation and of the following differences between KELLEY *et al.* and the claimed invention in the Application:

- (a). In the claimed invention, the function of the "Bookmark" button on the remote control device is apparently different from that of KELLEY *et al.* (see below);
- (b). The claimed invention in Claims 13 and 18 and those depending therefrom involves two separate and different bookmark functions, including (i) the bookmark function and "bookmark key" of a remote control device, and (ii) the bookmark function and "bookmark URL listing" of a web browser; Whereas KELLEY *et al.* only teaches using a web browser to view a web page; the function or technical term of "bookmark URL listing", or the like, of a web browser set forth in the Claims is not found in KELLEY *et al.*;
- (c). Claims 13 and 18 and those other claims depending therefrom pertain to interaction between a remote control device and a web browser; Whereas KELLEY *et al.* does not teach such a interaction between a remote control device and a web browser, because in KELLEY *et al.*, the bookmark button of the remote control device only causes a file, i.e., AR (activity record) or AT (activity table), to be saved, which has nothing to do with the function of a web browser;
- (d). In the claimed invention, a URL, not AR or AT as taught in KELLEY *et al.*, is saved or stored in response to activation of the "Bookmark" button on the remote control device; Whereas, in KELLEY *et al.*, only AR/AT is saved or stored in response to activation of the "Bookmark" button on the remote control, and the AR/AT does not include or contain any URL;
- (e). In the claimed invention, the process of obtaining a URL/web page associated with a TV event involves only one step, i.e., activating the bookmark button on the remote control; whereas in KELLEY *et al.*, such a process involves at least two steps, including (i) activating a bookmark button "B" (15) on the remote control; and (ii) activating, at a later time, the "Go" button (16) on the remote control device;

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(f). *KELLEY et al.* only teaches, very briefly and only once, using a "genetic www browser" to view a web page, which contains a "list of data" obtained, but it does **NOT** teach adding such a list of data to the "bookmark URL listing" of the web browser (*i.e.*, the "bookmark" pull-down menu of the browser, as claimed);  
as hereinafter more fully appears.

10. The claim limitations set forth in the following claim languages, as amended, are not found in *KELLEY et al.*:

- (1). In Claim 13, "... a bookmark key for causing said web browser to add a bookmark linking to a web content identified by a URL to the **bookmark URL listing** of the browser in response to said user's activation of said bookmark key" [*emphasis added*];
- (2). In Claim 18, "receiving an electromagnetic bookmark signal ... in response to a user activating a single bookmark button... and in response thereto, adding a bookmark linking to a web content identified by a URL to said web browser's **bookmark URL listing**." [*Emphasis added*]; and
- (3). In Claim 24, "In response to receiving an wireless bookmark signal... said wireless bookmark signal representative of said user's activation of a single bookmark button on said remote control device, Requesting a web content associated with said **current TV event** from a designated web site, ..." [*emphasis added*].

11. Evidently, a "Bookmark" button situated on a handheld remote control device is set forth in both *KELLEY et al.* and in the claimed invention of the present patent application. However, such a coincidence of naming a button with the same name in two different and independent disclosures does not necessary means that such a button is provided with the same function in the two disclosures. To the contrary, the function of the "Bookmark" button in *KELLEY et al.* is clearly different from that of the claimed invention, as are fully described in the ensuing paragraphs.

12. Applicant respectfully requests that the Examiner take the following key differences into consideration, (I) Other than the background section therein, *KELLEY et al.* only briefly mentions the term "browser" once in Col 3, line 23-28 ("Database 40 then generates a custom list of data for the user which indicates bookmarks associated with the broadcast event. For example, this list of data could take the form of, but not limited to, a World Wide Web (www) page on the Internet. The viewer could then view these with a generic www browser." [*emphasis added*]); But, such a teaching does **NOT** pertain to the technical concept of Interaction between a remote control device and a web browser application, or the concept of adding the "list of data" or any other URL or the like to the "web browser's **bookmark URL listing**" (*i.e.*, the bookmark pull-down menu of the web browser), because, presenting the "list of data" in form of a web page and viewing such a web page using a web browser

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is not equivalent to adding such "list of data" or any other URL into the web browser's bookmark URL listing; **IN CONTRAST**, the invention claimed in Claims 13-23 and 33-34 pertains to interaction between a remote control device and a web browser application, and to the concept of adding a URL to the web browser's bookmark URL listing, as so set forth in the foregoing claim languages; and (II) KELLEY *et al.* only mentions the technical concept of URL in the "Background of the Invention" section therein, which pertains to reviews of the technical field in general; As for the invention set forth therein, KELLEY *et al.* does **not** disclose using the bookmark button "B" (15) on a remote control device to directly save or store a URL or the like; **IN CONTRAST**, the claimed invention pertains to using a "bookmark" button on a remote control device to directly save and/or add a URL or a "bookmark linking to a web content" or the like to a web browser application's "bookmark URL listing".

13. In KELLEY *et al.*, the "Bookmark" button is labeled as the "B" button (15) in the figures (see FIGS. 1-5 therein). The function of the "B" button 15 is to cause an AR (activity record) entry, which is **not and does not contain a URL or web page**, to be saved or stored, in form of an AT (activity table), into a memory device. See, in KELLEY *et al.*,

- (1) Col. 2, Ln 54-65 ("...select button 15 is labeled 'B' on remote control 12 to denote 'Bookmark'. Each time the viewer activates select button 15 to bookmark a particular broadcast event, an activity record (AR) entry comprises data describing the date, time and channel is stored into an electronic memory 202 .... We refer to a list of AR entries as an activity table (AT) 204 that is stored in electronic memory 202." [Emphasis added])

Such a function of the "B" button 15 is also provided in the following sections in KELLEY *et al.*, Col. 1, Ln 54-58; Col. 3, Ln 40-44; Col 4, Ln 8-19; and Col 5, Ln 39-45. It is important to point out that, in KELLEY *et al.*, the AR/AT stored or saved in response to the activation of the "B" button 15 does not contain any URL or the like, while in the claimed invention, the information stored in response to activation of the bookmark key includes URL or the like (i.e., a piece of information directly linking to or directly and uniquely identifying a web page or web content). In fact, in KELLEY *et al.*, the URL is obtained after another button, i.e., the "Go" button 16, is activated. See, in KELLEY *et al.*,

- (2) Col 4, Ln 43-48 ("When the viewer wants to access the various websites associated with the selected broadcast events, the viewer activates network access button 16 ('Go') which causes peripheral device 21 to send the selected AT 204 to database 40, whereupon database 40 will return to network access device 21 the network address of the selected websites." [Emphasis added]); and
- (3) Col 3 Ln 52-Col 4 Ln 2 ("In the preferred embodiment, remote control 12 comprises a network access button 16 that... network button 16 is labeled 'Go' to denote 'Go to selected site'. Each time the viewer activates network button 16, a request to view a particular website is initiated. ... it also provides the traditional operations of other conventional remote controls along with the event marking function buttons, such as provided by event selection button 15, (labeled here, for example, as 'B' for

'Bookmarking'), network access button 16 (labeled 'Go'), and in an alternative embodiment shown in FIG. 5, further described below, download button 17 (labeled 'D') and upload button (labeled 'U')[*Emphasis added*]);

(4) See also Col 5, Ln 8-10; and Col 5 Ln 56—Col 6 Ln 2.

14. Therefore, in KELLEY *et al.*, the process of obtaining a URL relating to a TV event comprises **two or more steps**. In the preferred embodiment of KELLEY *et al.*, such a process includes **two steps**, including (i) activating a bookmark button 15 ("B") when viewing a "particular broadcast event", and (ii) activating a network access button 16 ("Go") "**at a later time**" (see below). In its alternative embodiment of FIGS. 4-5, such a process includes an additional step of activating a download button 17 ("D"). Moreover, in KELLEY *et al.*, the timing of activating the "Go" button 16 is not related to the timing of any TV event. Thus, the "Go" button 16 is not related to the technical concept of Book-marking a "current TV event" set forth in Claims 14, 19, and 24 and those depending therefrom. See the following sections of KELLEY *et al.*: (1) Col 2 Ln 66 – Col 3 Ln 11 ("Once the viewer has completed marking a selection of broadcast events, AT 204 is stored into a network access device 21.... When the viewer is ready to browse the websites associated with the selected broadcast events, either network access device 21, or personal computing device 20 of FIG. 4, transmits activity table 204 comprising the AR entries and also viewer identifying data... to a central database 40" [*Emphasis added*]); (2) Col 3, Ln 40-44 ("When Bookmark button 15 is pressed, remote control 12 sends a wireless signal comprising a command to CPU 216 to store an AR entry into AT 204 inside network access device 21, thereby 'bookmarking' the broadcast event for later lookup." [*Emphasis added*])

15. **CONCLUSION.** The foregoing demonstrates that, Claims 13, 18, and 24 are not anticipated by KELLEY *et al.* The Examiner failed to satisfy the requirements that, the identical invention must be shown in KELLEY *et al.* in as complete detail as is contained in the claimed invention, *Richardson v. Suzuki Motor Co., supra*, and that, every claim elements in the claim must be found in a single prior art reference, *Verdegaal Bros. v. Union Oil Co. of California, supra*. Claims 14-15 and 33 depend from Claim 13; Claims 19-20 and 34 depend from Claim 18; and Claim 25-26, 28 and 30 depend from Claim 24. Therefore, Claims 14-15, 33, Claims 19-20, 34 and Claims 25-26, 28 and 30 cannot be anticipated by KELLEY *et al.* when Claims 13, 18, and 24 are not anticipated by KELLEY *et al.*

### § III.5 REJECTION UNDER 35 U.S.C. § 103

16. Applicant respectfully traverses the Examiner's § 103 rejections of Claim 16 as being unpatentable over KELLEY *et al.* in view of YUEN, of Claims 17, 22, 23, and 29 as being unpatentable over KELLEY *et al.* in view of PALMER *et al.*, of Claim 21 as being unpatentable over

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KELLEY *et al.* in view of KIKINIS, and of Claim 27 as being unpatentable over KELLEY *et al.* in view of KIKINIS and further in view of PALMER *et al.*

17. The legal concept of § 103 obviousness is well established as that,

- (A) In order to rely on reference(s) for obviousness rejection under 35 U.S.C. §103, **all claim limitations** of Applicant's Claim must be taught or suggested by the reference(s); See MPEP §§ 2142, 2143.03; See also *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970); and *In re Royka*, 490 F.2d 981 (CCPA 1974);
- (B) There must be a reasonable expectation of success;
- (C) There must be some **suggestion or motivation** to modify or combine the prior art references, and the suggestion to modify or combine and reasonable expectation of success **must be founded in the prior art**, and not based on Applicant's disclosure. See *e.g.*, *In re Vaeck*, 947 F.2d 488, 493 (Fed. Cir. 1991) ("... a proper analysis under § 103 requires, *inter alia*, consideration of two factors ... Both the suggestion and the reasonable expectation of success must be founded in the prior art, not in the applicant's disclosure." [Emphasis added]); See also MPEP § 2142-43 and many other court decisions cited in MPEP §§ 2142-44. Said suggestion or motivation or rationale to modify may be expressly or impliedly contained in the prior art; Otherwise, Examiner must provide other **objective evidence** as to why the prior art would render obvious the claimed invention. See *Ex parte Clapp*, 227 USPQ 972, 973 (BPAI 1985); *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988); and MPEP § 2142;
- (D) Moreover, where the suggestion to modify cannot be found in any prior art references, Examiner **may not rely on level of skill** in the art to provide such suggestion. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 1324 (Fed. Cir. 1999) ("Rarely, however, will the skill in the art component operate to supply missing knowledge or prior art to reach an obviousness judgment") See also § MPEP 2143.01. But rather, the Examiner's rejection must be based on some **specific understanding**, such as scientific or technology principle, within the knowledge of one of ordinary skill. See, *e.g.*, *In re Rouffet*, 149 F.3d 1350, 1358 (Fed. Cir. 1998) ("Because the Board did not explain the specific understanding or principle within the knowledge of a skilled artisan that would motivate... the examiner selected these references with the assistance of hindsight." [Emphasis added]); *In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000) ("But, there was no finding as to the specific understanding or principle within the knowledge of a skilled artisan that would have motivated ... we conclude that the Board did not make out a proper *prima facie* case of obviousness" [Emphasis added]); *etc.*; See also § MPEP 2143.01;
- (E) Furthermore, the fact that the references can be modified or that the claimed invention is within the **capability** of one of ordinary skill in the art is not sufficient to establish *prima facie* obviousness **unless** prior art suggested desirability of modification. See *In re Mills*, 916 F.2d 680, 682 (Fed. Cir. 1990) ("While Mathis apparatus [prior art] may be capable of being modified to the run the way the Mills' apparatus is claimed, there must be a suggestion or motivation in the

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- reference to do so" [*Emphasis added*]); See also *In re Fritch*, 972 F.2d 1260 (Fed. Cir. 1992); *Ex parte Levengood*, 28 USPQ2d 1300 (BPAI 1993); *In re Kotzab, supra*; § MPEP 2143.01;
- (F) When the suggestion to modify a reference cannot be found in any prior art references, such suggestion or motivation must be based on some other **objective teachings** or evidence, and **NOT on conclusory statements**. See also *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988) (PTO can satisfy the burden to establish a *prima facie* case of obviousness "only by showing some **objective teaching** ..." [*Emphasis added*]); *In re Jones*, 958 F.2d 347, 351 (Fed. Cir. 1992) ("Conspicuously missing from this record is any evidence, other than the PTO's speculation ... that one of ordinary skill in the herbicidal art would have been motivated to make the modification..."); *In re Lee*, 277 F.3d 1338 (Fed. Cir. 2002) ("The factual inquiry whether to combine references must ... be based on objective evidence of record", 277 F.3d at 1343, and "The board cannot rely on conclusory statements when dealing with particular combinations of prior art..." 277 F.3d at 1345 [*Emphasis added*]).
- (G) The Examiners cannot simply render argument or conclusion based on their own understanding or experience. *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) ("The Board cannot simply reach conclusions based on its own understanding or experience - or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings" [*Emphasis added*])

The Examiner's errors in § 103 rejections are readily apparent in view of the foregoing legal concept of obviousness under 35 U.S.C. § 103. In particular, in all these rejections, the Examiner failed to provide objective evidence of suggestion or motivation to combine / modify the references cited; *Ex parte Clapp, supra*; *In re Vaeck, supra*; *In re Lee, supra*; (See also all other legal precedent cited in the previous paragraph) as hereinafter more fully appears.

18. In the Examiner's § 103 obviousness rejections, the Examiner's statements of rationale to modify / combine references in support of the rejections (other than the Examiner's reference to or summarization of the relevant portions of the prior art references cited) are as follows:

- (A). In rejecting Claim 16, in 1st paragraph of page 10 of the Office Action, "It would have been obvious to anyone of ordinary skill in the art at the time that the invention was made to modify Kelley et al. to include a buy button on remote control 10 and to include an online identity-authentication and purchasing application activated by the buy button of remote control 10 such as that taught by Yuen in order to allow the viewer to easily order products advertised on television." [*Emphasis added*] (Note: Yuen **DOES NOT** teach any identity-authentication application or the like, see below);
- (B). In rejecting Claim 17, in 1st paragraph of page 11, "It would have been obvious... to modify Kelley et al. to include URL messages that are associated with television programming at a predetermined time and sent in sync with one another to the user's television 82 and computer 40 in order to allow the synchronous display of Internet content that is associated with broadcasting content";



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- (C). In rejecting Claim 22, in 2nd paragraph of page 11 and 1st paragraph of page 12, "It would have been obvious... to modify Kelley et al. to include URL messages that are associated with television programming at a predetermined time and sent in sync with one another to the user's television 82 and computer 40 in order to allow the synchronous display of Internet content that is associated with broadcasting content." (Note, its identical to the arguments in rejecting Claim 17, see (B) above);
- (D). In rejecting Claim 23, in 2nd paragraph of page 12 (Note: in such rejection, the Examiner only refers to KELLEY *et al.*, and does NOT refer to any secondary reference);
- (E). In rejecting Claim 29, in 3rd paragraph of page 12 and 1st paragraph of page 13, "It would have been obvious to modify Kelley et al. to include a system of sending URLs to personal computing device 20 in advance of accessing a web site such as that taught by Palmer et al. in order to decrease the processing time of a web site access request.";
- (F). In rejecting Claim 21, in 3rd paragraph of page 13, "It would have been obvious... to modify Kelley et al. to include web content including control routines and data for body part movement and speech functions of a doll 13 coupled to personal computing device 20 such as that taught by Kikinis in order to portray broadcasting related content interactively through a computer controlled doll.";
- (G). In rejecting Claim 27, at bottom of page 14, "It would have been obvious... to modify Kelley et al. to include an interactive doll system 11 such as that taught by Kikinis and to further modify Kelly et al. and Kikinis to include a method and apparatus for connecting a computer to electronic addresses in sync with an audio/video broadcast such as that taught by Palmer et al. in order to portray broadcasting related content interactively through a computer controlled doll in sync with television programming."
19. With respect to the Examiner's foregoing statements of rationale to modify / combine references, as listed in the previous paragraph, in support of the Examiner's § 103 obviousness rejections of Claims 16, 17, 22, 29, and of Claims 21 and 27 in the Office Action, the Examiner failed to satisfy the foregoing legal requirements of § 103 obviousness rejection because,
- Applicant disagrees with the Examiner as to the functional feasibilities of all of the modifications / combinations alleged by the Examiner, and thus, there is no reasonable expectation of success; because such reasonable expectations of success is NOT found in the prior art, but rather, they are only speculated by the Examiner; *In re Vaeck, supra*;
  - In all these rejections, the Examiner only alleged that the references CAN be modified / combined, based on the level / capability of one of ordinary skilled in the art, to arrive at the claimed invention, which is not sufficient to establish *prima facie* obviousness unless prior art suggested desirability of modification. *In re Mills, supra*; *In re Fritch, supra*; *Ex parte Levengood, supra*; *In re Kotzab, supra*;
  - The modifications / combinations alleged by the Examiner were not based on any objective teachings; Examiner failed to particular point out which specific teachings in the prior art that

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provide the suggestion or motivation to combine / modify the references cited; *In re Vaeck, supra*; *Ex parte Clapp, supra*; *In re Fine, supra*;

- (d). The Examiner also failed to provide any other specific understanding, such as scientific or technology principle within the knowledge of one of ordinary skill, on which the alleged combinations or modifications were based; *In re Rouffet, supra*; *In re Kotzab, supra*;
- (e) Where the suggestion to modify / combine cannot be found in any prior art references, Examiner may not rely on level / capability of ordinary artisan to provide such suggestion, *Al-Site Corp. v. VSI Int'l Inc., supra*;
- (f). The Examiner's all these rejections were based on the Examiner's own speculation, understanding, and/or experience as to combining / modifying the references cited, which is impermissible. *In re Jones, supra*; *In re Zurko, supra*;
- (g). The Examiner's all these rejections were only based on the Examiners' conclusory statements as to suggestion / motivation to combine and/or modify the references cited, which is also impermissible. *In re Lee, supra*; *In re Fine, supra*.

Therefore, the Examiner's § 103 obviousness rejections of Claims 16, 17, 22, 23, 29, and of Claims 21 and 27 are based on impermissible hindsight. *In re Rouffet, supra*.

20. REQUEST FOR OBJECTIVE EVIDENCE. Applicant acknowledges that, only in very limited circumstance, it is appropriate for Examiners to rely on the so-called "common knowledge" not in the record in making obviousness rejection. In such cases, the rejections should be judiciously applied, and the Examiners are required to take **official notice** of facts or common knowledge without supporting documentary evidence. See MPEP § 2144.03. Provided, (i) such official notice may only be taken by the Examiners where the facts alleged to be well-known or common knowledge are capable of instant and unquestionable demonstration as being well known; See MPEP § 2144.03.A; and (ii) the technical line of reasoning underlying a decision to take such official notice must be clear and unmistakable, and be based on sound technical and scientific reasoning; *In re Soli*, 317 F.2d 941, 945-47 (CCPA 1963); See also MPEP § 2144.03.B; and (iii) If Applicant challenges that the Examiner's factual assertion is not properly noticed or not based upon common knowledge, the Examiner must support the finding with adequate evidence; MPEP § 2144.03.C; See also 37 C.F.R. § 1.104(d)(2). Therefore, in case that the Examiner maintains rejections of any Claims based on the so called common knowledge in the art in the ensuing Office Action, APPLICANT RESPECTFULLY REQUESTS, pursuant to 37 C.F.R. § 1.104(d)(2) and MPEP § 2144.03, that the Examiner (I) take official notice of the facts that are deemed common knowledge or well known, and (II) provide documentary evidence as required in 37 C.F.R. § 1.104(d)(2) and MPEP § 2144.03.C in support of the Examiner's any statement of common knowledge.

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21. The Examiner's other errors in § 103 rejections are as follows:

- (1). In rejecting Claim 16, (i) the Examiner failed to identify the difference between the function of the remote control device's "bookmark button" of the claimed invention and that of the KELLEY *et al.* (see § III.4 above), thus such a claim element is, in fact, not taught or suggested in KELLEY *et al.*; The Examiner's rejection failed to satisfy the requirement that all claim limitations must be taught or suggested by the references; *In re Wilson, supra*; and *In re Royka, supra*; (ii) In Claim 16, the function of the "buy button" is to "activating an online identity-authentication and a purchasing applications of said Internet-enabled client computer", whereas in YUEN, the function of the "BUY" key 28 does not involve activating any identity-authentication application; thus, although the "BUY" button of YUEN and that of the claimed invention have the same name, they apparently have different functions, and again, the Examiner's rejection failed to satisfy the requirement that all claim limitations must be taught or suggested by the references; *In re Wilson, supra*; and *In re Royka, supra*;
- (2). In rejecting Claims 17, 22, 23, and 29, (i) Again, the Examiner failed to identify the difference between the function of the remote control device's "bookmark button" of the claimed invention and that of the KELLEY *et al.*, and that the claimed step of "adding a bookmark linking to a web content identified by a URL to said web browser's bookmark URL listing" in Claims 22-23 is not taught in any of the references (see § III.4 above); thus these claim elements are, in fact, not taught or suggested in KELLEY *et al.*; The Examiner's rejection failed to satisfy the requirement that all claim limitations must be taught or suggested by the references; *In re Wilson, supra*; and *In re Royka, supra*; (ii) The synchronlization system of PALMER *et al.* pertains to a "alpha-numeric" paging system, which is completely different from that of the claimed invention; in PALMER *et al.*, the URL is included in "alpha-numeric pages" provided by a pager broadcaster 20, and received by the client computer 40 via a "alpha-numeric pager/beeper unit" 30, and the synchronization system therein is entirely based on the "alpha-numeric" paging system; (Col 4, Ln 1-4: "Receiver 30 is connected to processor unit 44 via cable 31. Receiver 30 is preferably an alpha-numeric pager/beeper unit, which is capable of receiving alpha-numeric information via a page"[*Emphasis added*]); (Col 4, Ln 33-36: "Likewise pager broadcaster 20 broadcasts alpha-numeric pages via electromagnetic signals 21 ..."[*Emphasis added*]); (Col 4, Ln 60-65, "The program continuously monitors and/or polls receiver 30 to determine whether any pages have been received.... When a page has been detected as received, the program tests the page to determine whether it includes a valid URL."); Therefore, the function of "synchronization" set forth in Claims 17 and 22-23 is, in fact, NOT taught in PALMER *et al.*, and step of "retrieving URL ... through the Internet" in Claim 29 is also not taught in PALMER *et al.*; Thus again, the Examiner's rejection failed to satisfy the requirement that all claim limitations must be taught or suggested by the references; *In re Wilson, supra*; and *In re Royka, supra*;

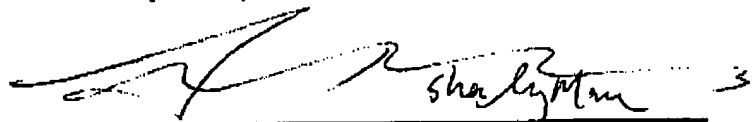
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- (3). In rejecting Claim 21, again, the Examiner failed to identify the difference between the function of the remote control device's "bookmark button" of the claimed invention and that of the KELLEY *et al.*, and that the step of "adding a bookmark linking to a web content identified by a URL to said web browser's bookmark URL listing" is not taught in KELLEY *et al.* (see § III.4 above); thus, the Examiner's rejection failed to satisfy the requirement that all claim limitations must be taught or suggested by the references; *In re Wilson, supra*; and *In re Royka, supra*;
- (4). In rejecting Claim 27, The Examiner's rejection failed to satisfy the requirement that all claim limitations must be taught or suggested by the references; *In re Wilson, supra*; and *In re Royka, supra*; because none of the references cited, including KELLEY *et al.*, PALMER *et al.*, and KIKINIS, teaches the concept of synchronization of two data streams (i.e., continuous streams of data, not just discrete data set) as set forth in the Claim.

## § III.6 CONCLUSION

22. Applicant respectfully requests, pursuant to 37 C.F.R. §§ 1.111, 112, that the Examiner reconsider and withdraw the rejections of Claims 13-30 in view of the foregoing REMARKS. Applicant respectfully submits that, the Application is in condition for allowance, and such an action is respectfully requested. Should any fee be due in connection with the present paper, please advise the undersigned at the Examiner's earliest convenience. If the Examiner has any other questions pertaining to the present Application or to the present or previous Amendment Papers, the Examiner is invited to contact the undersigned Applicant via Email at: sm2k@yahoo.com.

Respectfully Submitted

SIGNED ON: 08/12/2005

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